

Greetings

In response to your queries of V (A), I submit that the RIAA is offering a draconian solution to a problem that does not provide the harm they claim.

The RIAA claims that “listeners [could] copy the entire repertoire of individual artists with the push of a button and without even listening to a radio station’s broadcast programming.” After the song is presumably copied, listeners could “transfer songs to other devices for serial copying and distribution over the Internet.”

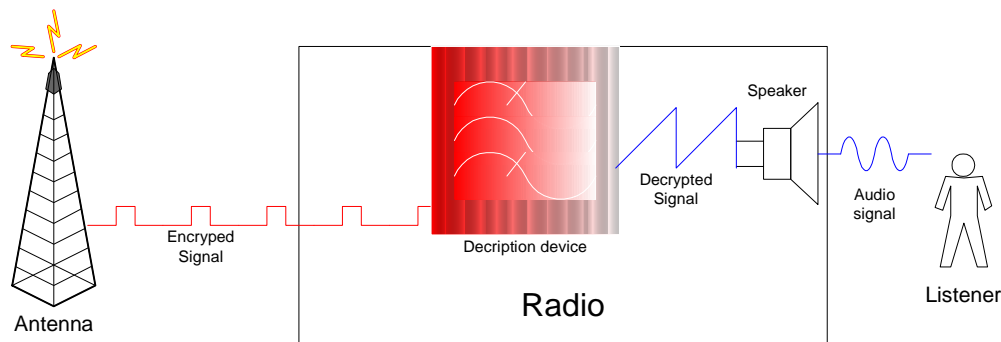
For the vast majority of listeners, the claim that they would engage in wholesale copying and distribution is ludicrous. What *is at issue* is the fact that the ability to copy songs to other devices the listener owns, for her own personal use, would become impossible. This places full control of how the consumer uses the product in the copyright holder’s purview. Such a concept is the complete antithesis of copyright law and the notion of fair use.

The RIAA proposes several possible methods of preventing “rampant piracy”: encryption or embedding a broadcast flag. Neither of these technologies will stop piracy, but they will serve as an inconvenience to the public.

Encryption

“Encryption” means that the audio signal is scrambled so that one cannot listen to it without a special device that can decode it. Presumably such a device would be incorporated into “authorized” receivers, however such a device would not be free—representing an additional barrier to listening. Access to decoders would have to be tightly controlled, lest the decoding technique be discovered and disseminated. The immediate effect of this technology would be to bar some of the public from listening to public airwaves. Gone would be the days when one could construct one’s own radio, or use an older radio to listen to broadcasts.

The fatal flaw with encryption rests with the “last mile,” in this case, the space from the decrypting device to the speakers or headphones. The signal must be unencrypted at this point in order for a listener to hear the broadcast.



Once the signal is unencrypted, it can be copied quite easily. Once a suitable copy is made, it can then be “uploaded to the internet,” given to

someone else, etc. without having to use a special decryption device. For this reason, encryption is not a suitable solution.

Broadcast Flag

The broadcast flag is similar to encryption in that it is an extra signal added to the audio stream. When an authorized device receives the flag, it disables any copying mechanisms. This method is even easier to circumvent by using a device that ignores the broadcast flag, or capture the signal as in the encryption example.

Conclusion

Any “technical” solution will be circumvented within a short time and serve only to inconvenience the law-abiding public. It will not protect the artists or the RIAA from receiving their just compensation, nor will it stop the dissemination of audio programming on the internet.

What I find disconcerting is that this is not a new argument. With the advent of analog audio tapes, the video cassette recorder, CD-ROMs, etc., the same argument depicting the death of the music industry was dusted off and trotted out. In none of these cases were musicians put out of business—quite the opposite, in fact.

I propose that the advent of digital broadcasting will represent an increase in business for some. Archaic business models (such as controlling distribution and charging for access at the choke points) will fall away, to be replaced by other, more profitable models. The businesses that recognize this will adapt and thrive. Those who don't will petition the government for ineffective “protections” that will ultimately fail, and they eventually will go the way of the dinosaur. *All I ask is that you allow the free market to dictate which businesses deserve to survive and resist the urge to inconvenience the law-abiding public.*

Thank you,

Bryan Hanks, PMP